

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
COLUMBIA DIVISION

Pamela L. Myrick,	)	
	)	C.A. No.: 1:05-169-RBH
Plaintiff,	)	
	)	
vs.	)	<b>ORDER</b>
	)	
Aiken County Government/Aiken County	)	
Detention Center, John Rowley, and Clay	)	
Killian,	)	
	)	
Defendants.	)	
	)	
	)	

This matter is before the court for review of the Report and Recommendation of United States Magistrate Judge Bristow Marchant, made in accordance with 28 U.S.C. § 636(b)(1)(B) and Local Rule 73.02 for the District of South Carolina.

The Magistrate Judge makes only a recommendation to this court. The recommendation has no presumptive weight. The responsibility to make a final determination remains with this court. See Mathews v. Weber, 423 U.S. 261, 270-71 (1976). The court is charged with making a de novo determination of those portions of the Report and Recommendation to which specific objection is made, and the court may accept, reject, or modify, in whole or in part, the recommendation of the Magistrate Judge or recommit the matter with instructions. See 28 U.S.C. § 636(b)(1).

There have been no objections filed to the Report and Recommendation. In the absence of objections to the Report and Recommendation of the Magistrate Judge, this court is not required to give any explanation for adopting the recommendation. See Camby v. Davis, 718 F.2d 198, 199 (4th Cir. 1983).

After a thorough review of the Report and Recommendation and the record in this case, the court adopts Magistrate Judge Bristow Marchant's Report and Recommendation and incorporates it herein.

It is therefore

**ORDERED** that the defendants are required, within ten (10) days of the filing of this Order, to submit an affidavit of fees and costs incurred as a result of Plaintiff's failure to comply with its discovery requests, including costs and fees incurred as a result of having to file motions and briefs because of this conduct. Plaintiff can submit any objections she may have to the amount of fees and costs requested. The court will then enter a final order setting the proper amount as to an award of fees and costs.

In the event such payment is then made, Defendants' motion to dismiss this case as a sanction for Plaintiff's conduct will be denied, with a new deadline set for Plaintiff's compliance with discovery in this case and to sit for a deposition. However, in the event Plaintiff fails to timely remit payment, the Defendants' motion will be granted, and this action will be dismissed with prejudice. See Ballard v. Carlson, 882 F.2d 93, 95 (4th Cir. 1989) (Magistrate judge's prior explicit warning that a recommendation of dismissal would result from Plaintiff failing to obey his order was proper grounds for the district court to dismiss suit when Plaintiff did not comply despite warning).

**AND IT IS SO ORDERED.**

s/ R. Bryan Harwell  
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R. Bryan Harwell  
United States District Judge

Florence, South Carolina  
September 6, 2005